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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,313	04/29/2005	Jorg Deister	2002P16958	4765
24131 7590 08/01/2008 LERNER GREENBERG STEMER LLP P O BOX 2480 HOLLYWOOD, FL 33022-2480				
EXAMINER				
CHACKO, JOE				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,313

Applicant(s)

DEISTER ET AL.

Examiner

JOE CHACKO

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 29 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-893)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date 6/27/2007

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-4** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "data messages being sent when time window is closed". It is not clear in the claim how when a "time window" for collection of messages is closed that a messages being sent from the data sources can be received by data sinks.

Claim 2 recites the "reception window above the data sinks" in line 19. It is not clear in the claim how a "reception window" can be "above" a physical device such as a "data sink". The applicant fails to particularly point out and distinctly claim this matter in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-3** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pittas et al. (U.S. Patent No. 5,296,936) in view of Takahara et al. (U.S. Patent No. 5,477,542).

As to **claim 1**, Pittas et al. discloses a method for ensuring the same order of messages in a plurality of data sinks (fig.1,workstations,[18]), a plurality of data sources (fig.1, 12, data server) transmitting data messages (data bursts) with identical message contents to the data sinks in parallel and independently of one another, (column 4, lines 1-5)

Pittas et al. does not disclose a window for the data messages being sent when the time window is closed.

Takahara et al. discloses a method where characterized in that the data sinks (fig.2, 100, communication terminal station) predefine for the data sources (corresponding communication terminal station) a time window (video packet transmission interval) for the collection of the data messages, the data messages being sent when the time window is closed.(column 5, lines 50-55)

At the time of the invention, it would have been obvious to a person of ordinary skilled in the art to modify Pittas et al by incorporating a transmit window for the delivery of data as disclosed by Takahara et al. The rationale behind this motivation is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by know methods with no change in their respective

functions and the combination would have yielded predictable results to one of ordinary skill in the art at the time of invention.

As to **claim 2**, Pittas et al.-Takahara et al. discloses a method in which it is disclosed that the time window (video packet transmission interval) is closed by means of an S.sub.ON message (communication end command) transmitted to the data sources (communication terminal station) by the data sinks (communication terminal station), the S.sub.ON message simultaneously opening a reception window(average receive interval) above the data sinks (communication terminal station). (column 7, lines 35-50)

As to **claim 3**, Pittas et al.-Takahara et al. discloses a method wherein reception window (average receive interval) is closed by means of an S.sub.OFF message (video stop command) transmitted to the data sinks (corresponding communication terminal station) by the data sources (sending communication terminal station). (column 7, lines 35-50)

5. **Claim 4** is rejected under 35 U.S.C. 103(a) as being unpatentable over Pittas et al. (U.S. Patent No. 5,296,936) in view of Takahara et al. (U.S. Patent No. 5,477,542) in further view of Garcia-Luna-Aceves et al. (U.S. Patent Pub. No. 2002/0091846 A1).

As to **claim 4**, Pittas et al.-Takahara et al. does disclose the method as claimed

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in claim 3, however does not disclose the token numbers being transmitted with the messages.

In an analogous art, Garcia-Luna-Aceves et al. does disclose a method wherein consecutive token number (sequence number) is transmitted to the data source (source node) from the data sinks (receiver node) ([0045], where the multicasting a message from source to receiver is combined with ordering information such as sequence number or time-stamps)

At the time of the invention , it would have been obvious to a person of ordinary skilled in the art to modify Pittas et al.-Takahara et al by incorporating a sequence number for ordering the messages being sent from source to receiver as disclosed by Takahara et al. The rationale behind this motivation is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by know methods with no change in their respective functions and the combination would have yielded predictable results to one of ordinary skill in the art at the time of invention.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Javed et al., U.S. Patent Publication No. 2001/0036271 A1;

Kristol et al., U.S. Patent No. 5,541,927 ;

DeSimone et al, U.S. Patent No. 6,138,144;

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOE CHACKO whose telephone number is (571)270-3318. The examiner can normally be reached on Monday-Friday 7:30am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. C./
Examiner, Art Unit 2152

/Jeffrey Pwu/
Supervisory Patent Examiner, Art Unit 2146

